

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

TERRY HUMPHREY,

Petitioner,

v.

CIVIL ACTION NO. 2:08-cv-00879

DAVID BALLARD,

Respondent.

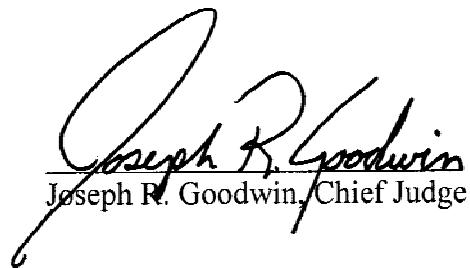
**ORDER**

This is an action for habeas corpus relief under 28 U.S.C. § 2254. Pending are the respondent's Motion for Summary Judgment [Docket 9] and the petitioner's Motion to Dismiss respondent's motion [Docket 12]. The action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On May 8, 2009, the Magistrate Judge submitted the findings of fact and recommendation ("PF&R") [Docket 15]. The PF&R recommended that the court grant the respondent's Motion to Dismiss and deny the petitioner's Motion to Dismiss the respondent's motion. Following the court's order granting the petitioner's Motion for Extension and Enlargement of Time under Rule 6(b) [Docket 17], the petitioner timely filed objections to the PF&R on June 8, 2009 [Docket 18].

Having reviewed the petitioner's objections *de novo*, the court **FINDS** that they are without merit. Accordingly, the court **ACCEPTS** and incorporates herein the findings and recommendation

of the Magistrate Judge, **DENIES** the petitioner's Motion to Dismiss the respondent's motion, and  
**GRANTS** Defendant's Motion for Summary Judgment.

ENTER: August 25, 2009



Joseph R. Goodwin  
Joseph R. Goodwin, Chief Judge